

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2003P03862WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/051297	International filing date (<i>day/month/year</i>) 30.06.2004	Priority date (<i>day/month/year</i>) 10.07.2003
International Patent Classification (IPC) or national classification and IPC H04L29/08		
Applicant SIEMENS AKTIENGESELLSCHAFT		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 5 sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
 - ☐ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1, 3-18 as originally filed/furnished
 - pages* 2, 2a received by this Authority on 10.05.2005 with letter of 09.05.2005
 - pages* _____ received by this Authority on _____
 - ☒ the claims:
 - nos. _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* 1-10 received by this Authority on 10.05.2005 with letter of 09.05.2005
 - nos.* _____ received by this Authority on _____
 - ☒ the drawings:
 - sheets 1/1 as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-8, 10	YES
	Claims	9	NO
Inventive step (IS)	Claims	3	YES
	Claims	1-2, 4-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1. This report refers to the following documents:			
D1: WO 03/014955 A (GIGAMEDIA ACCESS CORP), 20 February 2003 (2003-02-20)			
2. Claim 1 fails to meet the requirements of PCT Article 33(1) because its subject matter is not inventive (PCT Article 33(3)).			
In line with the principal features of claim 1, document D1 discloses a communication system comprising:			
- a fixed communication network (figure 2);			
- a mobile wireless network (figure 2);			
- a mobile wireless/fixed network interface computer (figure 2, connections 51 to 65, paragraph 77) which is coupled to the fixed and mobile networks to represent a data stream (paragraph 77) between the fixed network and the mobile network;			
- a super-peer host computer (figures 1 and 2, items 11 and 17; paragraph 54) which is coupled to the mobile wireless network computer (figure 2).			

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Box No. V

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The subject matter of claim 1 differs from what is disclosed in D1 in that the mobile wireless communication network includes a peer-to-peer message filter that forwards the peer-to-peer messages which it receives to the super-peer computer.

D1 does not explicitly disclose a mobile wireless communication network with a peer-to-peer message filter that forwards the peer-to-peer messages which it receives to the super-peer computer. However, for a person skilled in the art wishing to set up a peer-to-peer connection between a mobile wireless network and a fixed network in accordance with D1, a function for identifying (or filtering out) messages that are to be forwarded from the mobile network to the fixed network is a **necessary** implementation detail.

Whether this forwarding function is implemented as (for example) a gateway, a switch, a router or "message filter" or within a mobile wireless/fixed network interface computer is a choice which a skilled person can make without having to exercise inventive skill.

Claim 1 is therefore not considered inventive (PCT Article 33(1) and (3)).

3. The possible argument that a message filter would reduce the burden both on the mobile wireless network and on the connected fixed network (for example, through early termination of messages in the mobile wireless network) has no validity because messages from the mobile wireless network destined for a peer

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receiver (for example, a super-peer) in the fixed network (for example) are a burden on both the mobile wireless network and the fixed network.

- 3.1 However, this would not be the case if the super-peer computer was already in the mobile wireless network (see the description, page 18, lines 6 to 15:

"Clearly the invention can be seen to involve having a super-peer computer within the mobile wireless network itself ... so that the messages are terminated as early as possible.")

4. With reference to the objections in respect of claim 1, **claim 10** is also not inventive (PCT Article 33(1) and (3)) because the method features specified therein correspond essentially to the structural features specified in claim 1.

- 4.1 The scope of independent **apparatus claim 9** is so broad that it is anticipated by a normal gateway or a firewall (for example).

Claim 9 is therefore not considered novel (PCT Article 33(1) and (2)).

5. Dependent **claims 2 and 4 to 8** do not contain any features that meet the PCT requirements in respect of inventive step (PCT Article 33(1) and (3)) when combined with the features of any of the back-referenced claims, because the features of claims 2 and 4 to 8 either are directly derivable from D1, or are obvious from a combination of D1 and other

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
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documents cited in the search report or the common
general knowledge in the art.

Certain defects in the international application

1. The claims have not been drafted in the **two-part form** (PCT Rule 6.3(b)) on the basis of their technical features, with the features which are known from the prior art (document D1) brought together in the preamble (PCT Rule 6.3(b)(i)) and the remaining features specified in the characterising part (PCT Rule 6.3(b)(ii)).
2. The requirements of PCT Rule 5.1(a)(ii) have not been met because the prior art (see document D1) is not cited or outlined in the introductory part of the description.

Observations

Independent **method claim 10** refers back to independent and dependent system and apparatus claims.